REMARKS

I.   Summary of the Office Action

        Claims 1, 2, 6-18, 35, 36, and 40-48 are pending in

this application.

        Claims 1, 2, 6-18, 35, 36, and 40-48 are rejected

under 35 U.S.C. § 103(a) as being obvious from O'Connor et al.

U.S. Patent Application No. 2005/0244138 (hereinafter

"O'Connor") in view of Zigmond et al. U.S. Patent No. 6,698,020

(hereinafter "Zigmond").

II.   Summary of the Applicants' Reply

        Independent claims 1 and 35 have been amended to more

particularly define the claimed invention. Support for amended

claims 1 and 35 can be found at, for example, paragraph [0033]

of applicants' specification.

        The Examiner's rejections are respectfully traversed.

III. Applicants' Reply to the § 103 Rejection

        Claims 1, 2, 6-18, 35, 36, and 40-48 are rejected

under 35 U.S.C. § 103(a) as being obvious from O'Connor in view

of Zigmond. This rejection is respectfully traversed.

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Applicants' independent claims 1 and 35 refer to a method and system for providing a customized playback experience of recorded programming, customized in that one or more promotions are insertably recorded with respect to the recorded programming such that during playback, the recorded promotion(s) appear as if they were originally part of the recorded programming. Recording the selected program and the selected promotion provides an integrated recorded program/promotion playback asset. The selected program and the selected promotion originate from independent content sources – i.e. the selected program and the selected recording are separate entities before they are recorded to provide the program/promotion playback asset. Recording both a program and a promotion originating from independent content sources provides the advantage of being able to insert the promotion at any point (e.g., beginning, end, or any point between the beginning and end of the program) with respect to the program, including programs which are commercial free.

O'Connor does not show or suggest providing an integrated recorded program/promotion playback asset, wherein the selected program and the selected promotion originate from independent content sources. Throughout O'Connor, a singular

video stream is recorded and altered. The video stream may

include any combination of audio and/or video data streams.

However, O'Connor does not combine materials from two separate

video streams during any of its video editing techniques.

Instead, O'Connor time-shifts its singular video stream in

order to provide an altered version of the same video stream.

No new or different data may be inserted into the video stream

besides preexisting data in the video stream itself. This

deficiency deprives O'Connor of the ability to record a

selected promotion to produce an integrated recorded

program/promotion playback asset, as required in applicants'

independent claims 1 and 35.

Even if O'Connor could be modified to record a

selected program and a selected promotion from independent

content sources, which it could not, such a modification would

still run contrary to the functionality of O'Connor. O'Connor

aims to alter a video stream after the recording of a

particular portion of the video stream so that a user may play

back the particular portion of the video stream that has

already been recorded. For example, a user may watch a portion

of a movie being recorded before the movie is finished

recording. The movie may or may not contain promotions.

Recording additional promotions into this video stream after it has been recorded would decrease the functionality of O'Connor, as it would lengthen the video stream causing the need for more video storage space, more video compression time, and more video buffer space than the original video stream. Further, recording alternate promotions over preexisting promotions in this video stream would decrease the functionality of O'Connor, as it would cause the preexisting promotions to be masked by the alternate promotions. O'Connor provides no motivation to replace preexisting promotions in this fashion, or suggestion as to additional mechanisms to determine how to replace preexisting promotions. Thus, modifying O'Connor to record a selected program and a selected promotion from independent content sources would run contrary to the functionality of O'Connor.

To make up for the deficiency of O'Connor, the Examiner relies on Zigmond. Zigmond refers to a system that provides insertion of advertisements into a video programming stream at the household level. Nowhere in Zigmond does it show or suggest recording a program and recording a promotion in a predetermined sequence to provide an integrated recorded

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program/promotion playback asset, wherein the promotion is independent of the program.

Applicants respectfully submit that one skilled in the art would not modify O'Connor to incorporate the advertisement insertion techniques of Zigmond because O'Connor teaches altering a video stream after the recording of a particular portion of the video stream so that a user may play back the particular portion of the video stream that has already been recorded, whereas Zigmond merely teaches inserting advertisements on-the-fly in the video stream as it is broadcast or being replayed from recorded media. Modifying O'Connor to record advertisements on-the-fly would not make logical sense, as it would complicate O'Connor's functionality beyond its intended purpose. As discussed, inserting advertisements on-the-fly in O'Connor would possibly lengthen the video stream. This new requirement may cause the need for more video storage space, more video compression time, and more video buffer space than the editing of the original video stream. Thus, adding such complexity to O'Connor could destroy its functionality.

Further, even if O'Connor could be modified to include the teachings of Zigmond, which it could not, the
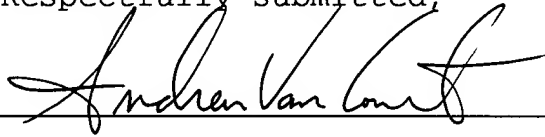
combination would still fail to show or suggest applicants'
claimed approach of recording promotions - promotions that are
not included in the recorded programming - in a predetermined
sequence to provide an integrated recorded program/promotion
playback asset. Zigmond does not show or suggest recording a
program and recording a promotion in a predetermined sequence
to provide an integrated recorded program/promotion playback
asset. O'Connor does not show or suggest providing an
integrated recorded program/promotion playback asset, wherein
the selected program and the selected promotion originate from
independent content sources. Thus, the proposed combination
would fail to be able to produce an integrated recorded
program/promotion playback asset as required by applicants'
claims.

Accordingly, for at least the foregoing reasons,
amended independent claims 1 and 35 and dependent claims 2, 6-
18, 36, and 40-48, which depend from either amended independent
claim 1 or 35, are not obvious from O'Conner in view of
Zigmond. This rejection should therefore be withdrawn.

IV. Conclusion

In view of the foregoing, claims 1, 2, 6-18, 35, 36, and 40-48 are allowable. This application is therefore in condition for allowance. Reconsideration and allowance of this application are respectfully requested.

Respectfully submitted,

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